

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JUAN ORTIZ, a.k.a. Juan Andres Ortiz)	
Juarez, Iraq London Monaco, Juan Andres)	
Ortiz, Juan Juarez Ortiz, Iraq Ortiz Juan,)	
ID # 871392,)	No. 3:08-CV-0124-N (BH)
Plaintiff,)	ECF
vs.)	Referred to U.S. Magistrate Judge
)	
DIRECTOR SKYVIEW UNIT, et al.,)	
Defendants.)	

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an Order of the Court in implementation thereof, subject cause has previously been referred to the United States Magistrate Judge. The findings, conclusions, and recommendation of the Magistrate Judge are as follows:

I. BACKGROUND

On January 23, 2008, the Court received a document from plaintiff that it construed as a civil complaint. On February 15, 2008, the Court issued a Notice of Deficiency and Order wherein it notified plaintiff that he had not (1) paid the requisite filing fee or submitted a request to proceed *in forma pauperis*; (2) filed his complaint on the standard form for actions filed pursuant to 42 U.S.C. § 1983; (3) signed his complaint in accordance with Fed. R. Civ. P. 11; or (4) complied with Fed. R. Civ. P. 8(a). It granted him thirty days to cure the deficiencies and warned him that the failure to do so may result in the dismissal of this action pursuant to Fed. R. Civ. P. 41(b). Within the thirty-day period, plaintiff filed an application to proceed *in forma pauperis* and a civil complaint on the § 1983 form that is at least arguably signed in that it has the name "Iraq Juan Ortiz" printed on the signature line.

On the standard complaint, plaintiff names three specific defendants, but does not comply with Rule 8(a)'s requirements that the complaint provide a "short and plain statement of the claim showing that the pleader is entitled to relief" and a "demand for the relief sought." There is certainly no plain statement showing that plaintiff may be entitled to relief. His complaint is mostly indecipherable. His claim for relief merely states: "Universal School case number H 043583 Houston."

II. INVOLUNTARY DISMISSAL

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss *sua sponte* an action for failure to prosecute or follow orders of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court's inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-31 (1962). Plaintiff has failed to comply with the Order of February 15, 2008, that he file an amended complaint that complies with Fed. R. Civ. P. 8(a) within thirty days. The submitted amended complaint contains neither a plain statement of a claim showing that plaintiff is entitled to relief nor a "demand for the relief sought." The amended complaint, when taken as a whole, demonstrates that plaintiff cannot or will not comply with Rule 8(a). Accordingly, the Court should dismiss his complaint for the failure to comply with the February 15, 2008 order.

III. RECOMMENDATION

For the foregoing reasons, it is recommended that plaintiff's complaint be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for plaintiff's failure to comply with an order of the Court.

SIGNED this 26th day of March, 2008.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on all parties by mailing a copy to each of them. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. Failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE